

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ALBERTO RINCON,

Petitioner,

v.

NATHANIEL QUARTERMAN,

Respondent.

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CIVIL ACTION NO. H-06-2187

MEMORANDUM OPINION AND ORDER

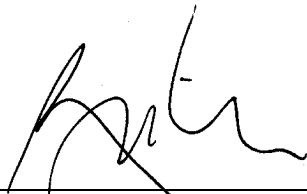
Petitioner Alberto Rincon, a state inmate incarcerated in the Texas Department of Criminal Justice – Correctional Institutions Division, filed this petition under 28 U.S.C. § 2254 challenging the calculation of his federal sentence credits. On July 5, 2006, the Court denied petitioner's application to proceed *in forma pauperis* and ordered him to pay the \$5.00 filing fee in full on before July 30, 2006. Petitioner was warned that his failure to timely pay the filing fee may result in the dismissal of this case without further notice. To-date, petitioner has neither paid the filing fee nor requested additional time to comply.

Petitioner's failure to pursue this action forces the Court to conclude that he lacks due diligence. Therefore, under the inherent powers necessarily vested in a court to manage its own affairs, this Court determines that dismissal for want of prosecution is appropriate. *See* FED. R. CIV. P. 41(b); *Larson v. Scott*, 157 F.3d 1030 (5th Cir. 1998) (noting that a district court may *sua sponte* dismiss an action for failure to prosecute or to comply with any court order).

Accordingly, it is **ORDERED** that this action be **DISMISSED** without prejudice for want of prosecution. A certificate of appealability is **DENIED**. Any and all pending motions are **DENIED** as moot.

The Clerk will provide a copy of this order to the parties.

Signed at Houston, Texas, on August 15, 2006.



Gray H. Miller
United States District Judge